



U.S. OFFICE OF SPECIAL COUNSEL  
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Washington, D.C. 20036-4505  
202-804-7000

March 14, 2019

Senator Donald Benton  
Director, Selective Service System  
c/o Mr. Rudy Sanchez  
General Counsel

VIA EMAIL ([rudy.sanchez@sss.gov](mailto:rudy.sanchez@sss.gov))

Re: OSC File No. HA-18-6011

Dear Mr. Benton:

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act when you spoke at a Hawaii Republican Party (Party) fundraiser in late September 2018. As explained below, OSC has concluded that you did not violate the Hatch Act.

The Hatch Act governs the political activity of federal civilian executive branch employees, except for the President and Vice President.<sup>1</sup> You are an individual covered by the Hatch Act by virtue of your position as the Director of the Selective Service System (SSS). Among other things, the Hatch Act prohibits covered individuals from using their official authority or influence for the purpose of affecting the result of an election.<sup>2</sup> For example, an individual may not use his official title while participating in political activity.<sup>3</sup>

During our investigation, we learned that you were invited to speak at the Hawaii Republican Party's Constitution Day Dinner, which took place on Friday, September 21, 2018. After receiving the speaking request, you sought advice from agency counsel, and they informed you that you could participate in the event provided that you refrained from speaking about SSS and instead spoke about the 2016 Presidential campaign and the Trump Administration's current successes. You relayed your agency's advice to the Party and informed them that your position as SSS Director could only be referenced in your biography and in your introduction. You explicitly stated that no other use was permitted.

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<sup>1</sup> See generally 5 U.S.C. §§ 7321-7326.

<sup>2</sup> 5 U.S.C. § 7323(a)(1). The Hatch Act also prohibits covered employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. See 5 U.S.C. §§ 7323(a)(2)-(4), 7324.

<sup>3</sup> 5 C.F.R. § 734.302(b)(1).

**U.S. Office of Special Counsel**

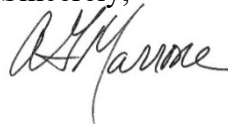
Page 2

Although you conveyed this information to the Party, your official title, “Director, Selective Service,” was projected on a large screen behind you during your remarks at the Constitution Day Dinner. It is our understanding that when you began your speech you stated you were speaking in your personal capacity and not on duty. After the event, the Party sent you a letter taking responsibility for the fact that, despite your directions, Party interns had displayed your official title on the screen.

Because you provided the Party with advance notice about the restrictions on the use of your official title and during the speech you asserted that you were speaking in your personal capacity, we believe that the Party acted without your permission when they displayed your title. Therefore, OSC has concluded that you did not violate the Hatch Act. Accordingly, we are closing our file without further action.

If you have any questions, please contact Hatch Act Unit Attorney Jacqueline Yarbrow at (202) 804-7139.

Sincerely,

A handwritten signature in black ink, appearing to read "AGMarrone", written in a cursive style.

Ana Galindo-Marrone  
Chief, Hatch Act Unit